

SENATE BILL 944

By Burks

AN ACT to amend Tennessee Code Annotated, Title 40, Chapter 33 and Title 55, Chapter 10, relative to driving under the influence of an intoxicant and ignition interlocks.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 55, Chapter 10, Part 4, is amended by adding the following language as a new, appropriately designated section:

§ 55-10-420.

(a)

(1) In addition to the penalties imposed by § 55-10-403(a)(1)(A), if a person convicted of a violation of § 55-10-401 on or after July 1, 2007, has a prior conviction for a violation of § 55-10-401 or a similar offense in any other jurisdiction, the court shall order such person to operate only a motor vehicle or motorcycle which is equipped with a functioning ignition interlock device, during the period that the person's driver's license is restricted pursuant to § 55-10-403(d)(4) and for a period of up to one (1) year after such person's license is no longer suspended, revoked or restricted pursuant to the provisions of § 55-10-403(a). The court shall also order such device to be installed on all vehicles owned or leased by such person.

(2) In addition to any other penalty authorized by this part, a person whose license has been revoked pursuant to § 55-10-406 for failing to consent to a test to determine the person's blood alcohol content on or after July 1, 2007, shall be ordered to operate only a motor vehicle which is equipped with a functioning ignition interlock device during the time of such person's driver's license revocation period and for a period of up to one (1) year after such

person's license is no longer suspended, revoked or restricted. The court shall also order such device to be installed on all vehicles owned or leased by the person.

(3) Notwithstanding the provisions of § 55-10-403(a)(1)(A) and in addition to any other penalty authorized by this part, if a person is convicted of a violation of § 55-10-401 on or after July 1, 2007 and the alcohol concentration in such person's blood, breath or urine was equal to or greater than fifteen hundredths of one percent (.15%) at the time the offense was committed, the court shall order such person to operate only a motor vehicle which is equipped with a functioning ignition interlock device, which includes the period that the person's driver's license may be restricted pursuant to § 55-10-403(d)(1) and for a period of up to one (1) year after such person's license is no longer suspended, revoked or restricted pursuant to the provisions of § 55-10-403(a). The court shall also order such device to be installed on all vehicles owned or leased by the person.

(4) In addition to the penalties authorized for a person convicted for the first time of a violation of § 55-10-401, a court may, in its discretion, upon finding a person financially able to afford an interlock device, order the person to operate only a motor vehicle which is equipped with a functioning ignition interlock device, and this restriction may continue for a period of up to one (1) year after such person's license is no longer suspended, revoked or restricted under the provisions of § 55-10-403.

(b) The court shall establish the period of time that the person shall be subject to the restriction and a specific calibration setting no lower than point zero two (.02) nor more than point zero five (.05) blood alcohol concentration at which the ignition interlock device will prevent the motor vehicle from being started.

(c) For the purpose of this section, "ignition interlock device" means a device which connects a motor vehicle ignition system to a breath-alcohol analyzer and prevents a motor vehicle ignition from starting if a driver's blood alcohol level exceeds the calibrated setting on the device.

(d) Upon ordering the use of an ignition interlock device, the court shall:

(1) State on the record the requirement for and the period of use of the device, and so notify the department of safety;

(2) Direct that the records of the department reflect:

(A) That the person may not operate a motor vehicle that is not equipped with an ignition interlock device; and

(B) Whether the court has expressly permitted the person to operate a motor vehicle without an ignition interlock device under subsection (k);

(3) Direct the department to attach or imprint a notation on the driver's license of any person restricted under this section stating that the person may operate only a motor vehicle equipped with an ignition interlock device;

(4) Require proof of the installation of the device and periodic reporting by the person for verification of the proper operation of the device;

(5) Require the person to have the system monitored for proper use and accuracy by an entity approved by the department at least semiannually, or more frequently as the circumstances may require;

(6) Make a determination as to whether the person is indigent and, if not, require the person to pay the reasonable cost of leasing or buying, monitoring, and maintaining the device, and establish a payment schedule if necessary.

(7) Direct that funds to pay for the reasonable cost of leasing or buying, monitoring, and maintaining the device be taken from the alcohol and drug addiction treatment fund established in § 40-33-211 if the person is found to be indigent.

(e) A person prohibited under this section from operating a motor vehicle that is not equipped with an ignition interlock device may not solicit or have another person attempt to start or start a motor vehicle equipped with such a device. Except as provided in subsection (i), a violation of this subsection (e) is a Class A misdemeanor.

(f) A person may not attempt to start or start a motor vehicle equipped with an ignition interlock device for the purpose of providing an operable motor vehicle to a person who is prohibited under this section from operating a motor vehicle that is not equipped with an ignition interlock device. Except as provided in subsection (i), a violation of this subsection (f) is a Class A misdemeanor.

(g) A person may not tamper with, or in any way attempt to circumvent, the operation of an ignition interlock device that has been installed in a motor vehicle. Except as provided in subsection (i), a violation of this subsection (g) is a Class A misdemeanor.

(h) A person may not knowingly provide a motor vehicle not equipped with a functioning ignition interlock device to another person who the provider of such vehicle knows or should know is prohibited from operating a motor vehicle not equipped with an ignition interlock device. Except as provided in subsection (i), a violation of this subsection (h) is a Class A misdemeanor.

(i) A person who violates subsections (e)-(h) commits a Class A misdemeanor; provided, that a penalty shall not apply if:

(1) The starting of a motor vehicle, or the request to start a motor vehicle, equipped with an ignition interlock device is done for the purpose of safety or mechanical repair of the device or the vehicle, and the person subject to the court order does not operate the vehicle; or

(2) The court finds that a person is required to operate a motor vehicle in the course and scope of the person's employment and if the vehicle is owned by the employer, the person may operate that vehicle during regular working hours for the purposes of employment without installation of an ignition interlock device, if the employer has been notified of such driving privilege restriction and if proof of that notification is with the vehicle. This employment exemption does not apply, however, if the business entity that owns the vehicle is owned or controlled by the person who is prohibited from operating a motor vehicle not equipped with an ignition interlock device.

(j)

(1) In addition to circumstances under which a court orders the use of an ignition interlock device set out in subsection (a), a court may order that the vehicle owned or operated by a person or a family member of such person to commit a violation of § 55-10-401, be equipped with an ignition interlock device for all or a portion of the time the driver license of the operator of such vehicle is suspended, revoked or restricted pursuant to § 55-10-403, if:

(A) The operator of the vehicle used to violate § 55-10-401, has at least one (1) prior conviction for driving a motor vehicle when such person's privilege to do so is cancelled, suspended or revoked as provided by § 55-50-504; or

(B) The driver license of the operator of such vehicle was cancelled, suspended or revoked at the time of the violation of § 55-10-401.

(2) A judge ordering the use of an ignition interlock device pursuant to this subsection (j) shall follow the same procedures set out in subsections (b) and (d), and the provisions of subsections (e)-(h) shall apply to an interlock device ordered pursuant to this subsection (j).

(3) The provisions of this subsection (j) shall not apply if the vehicle used to commit the violation of § 55-10-401, was, at the time of such violation, leased, rented or stolen.

(k)

(1) Any person subject to the provisions of subdivision (a) may, solely in the course of employment, operate a motor vehicle or motorcycle, which is owned or provided by such person's employer, without installation of an ignition interlock device, if:

(A) The court expressly permits such operation;

(B) The employer has been notified of such driving privilege restriction; and

(C) Proof of that notification is within the vehicle.

(2) This subdivision (k) shall not apply if such employer is an entity wholly or partially owned or controlled by the person subject to the provisions of this subsection (k).

SECTION 2. Tennessee Code Annotated, Section 55-10-412, is amended by deleting subsection (d) in its entirety.

SECTION 3. Tennessee Code Annotated, Section 55-10-403(d), is amended by deleting subdivision (4)(B) in its entirety.

SECTION 4. Tennessee Code Annotated, Section 40-33-211(c)(3), is amended by deleting the language “pursuant to § 55-10-412; provided, however, that the device should not be utilized in lieu of treatment of the person.” and replace it with the language “pursuant to § 55-10-420.”.

SECTION 5. Tennessee Code Annotated, Section 55-10-406, is amended by inserting the following language as a new subsection (f):

(f) Notwithstanding any other provision in this section, any court suspending, revoking or restricting a person’s driver’s license for a violation of this section shall also comply with the requirements of ignition interlocks set forth in § 55-10-420.

SECTION 6. This act shall take effect July 1, 2007, the public welfare requiring it.